

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF EQUITABLE GAS)	
COMPANY, A DIVISION OF EQUITABLE)	CASE NO.
RESOURCES, INC., FOR AN ADJUSTMENT)	92-326
OF RATES)	

O R D E R

This matter arising upon petition of Equitable Gas Company ("Equitable Gas") filed January 14, 1993 to reconsider the Commission's Order of December 28, 1992 denying Equitable Gas's request for confidential protection of information relating to employee salaries on the grounds that such protection is in the best interest of Equitable Gas and its ratepayers, and it appearing to this Commission as follows:

On December 11, 1992, Equitable Gas petitioned the Commission to protect as confidential information relating to employees' salaries contained in its response to the Attorney General's Data Request No. 3. The information sought to be protected consists of the hourly rates paid to the certain classifications of employees and the percentage of each classification's rate allocated to Kentucky. Because Equitable Gas failed to file with the petition edited copies of the exhibit containing the information sought to be protected in accordance with the filing requirements of 807 KAR 5:001, Section 7, the petition was denied. As part of its petition for reconsideration, Equitable Gas attached edited copies of the

exhibit with the information it seeks to protect obscured for inclusion in the public record.

The exhibit filed by Equitable Gas provides the hourly rate paid to certain employees and the percentage of their compensation allocated to Kentucky. In its petition, Equitable Gas seeks only to protect the hourly rate of compensation.

Information filed with the Commission, or any public agency, is required by KRS 61.872 to be open for public inspection unless otherwise exempted by statute. Exemptions from this requirement are contained in KRS 61.878 which lists 10 categories of information which may be protected as confidential. To qualify for exemption, it must be established that the information sought to be protected falls within one of these categories. Although the petition filed by Equitable Gas does not state under which category exemption is sought, protection of similar information is generally requested under the provisions of KRS 61.878(1)(a). That section exempts from disclosure "information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." This provision is intended to protect from public disclosure any information contained in public records that relates the details of an individual's private life when the individual's privacy interest in the information outweighs the public's interest in the information. Board of Education of Fayette County v. Lexington-Fayette Urban County Human Rights Commission, Ky. App., 625 S.W.2d 109, 111 (1981).

In this proceeding, Equitable Gas is seeking Commission approval of an adjustment of its rates. If approved, such an increase would affect the numerous customers served by Equitable Gas. As customers, they have an interest in seeing that the rates approved by the Commission are "fair, just, and reasonable" as required by KRS 278.030(1). Since Equitable Gas seeks to recover through its rate structure the compensation and salaries paid to its employees, its customers have a right to know whether the salaries and compensation paid to those employees are reasonable. This interest outweighs the privacy interest of the employees and the information is not entitled to protection under the exemption provided by KRS 61.878(1)(a). Therefore, the petition for confidential protection should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

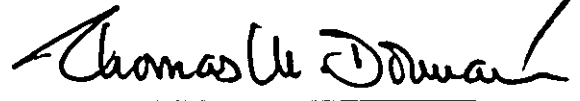
1. The petition for confidential protection of the hourly rates paid to certain classifications of employees listed in the exhibit to Equitable Gas's response to the Attorney General's Data Request No. 3, which Equitable Gas has petitioned be withheld from public disclosure, be and is hereby denied.


2. The information sought to be protected shall be held and retained by this Commission as confidential and shall not be open for public inspection for a period of 20 days from the date of this Order, at the expiration of which it shall be placed in the public record without further Order of the Commission.

Done at Frankfort, Kentucky, this 28th day of January, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director